

**Notice of Allowability**

Application No.

10/690,927

Applicant(s)

SHEALY, C. NORMAN

Examiner

James W. Rogers, Ph.D.

Art Unit

1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/10/2007.
2. ☒ The allowed claim(s) is/are 1, 5, 7-9, 11, 14, 18, and 21-22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>20071130</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                         |
|  | 9. <input type="checkbox"/> Other _____.   |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I in the reply filed on 10/10/2007 is acknowledged. The traversal is on the ground(s) that the examiner has already searched for groups I and II previously, therefore there would be no serious burden on the examiner to examine groups I and II. This argument is found persuasive; therefore the examiner has withdrawn the restriction requirement filed 09/11/2007.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Dingus Reg. No. 55,114 on 11/30/2007.

The application has been amended as follows:

#### **IN THE CLAIMS:**

Claims 4,6,10,15,19-20 have been cancelled.

In claim 1 lin 4 the word "comprising" has been deleted and the phrase "consisting of" has been inserted in its place.

In claim 1 line 5 the phrase "a solvent" has been deleted and the word "water" has been inserted in its place.

In claim 1 line 5 the word "cellulose" has been inserted before the phrase "gelling agent".

In claim 5, "claim 4" has been deleted and the phrase "claim 1" has been inserted in its place.

In claim 7 line 2 the word "solvent" has been deleted and the word "water" has been inserted in its place.

In claim 8 line 2 the word "cellulose" has been inserted before the phrase "gelling agent".

In claim 11 line 4 the word "comprising" has been deleted and the phrase "consisting of" has been inserted in its place.

In claim 14 line 5 the word "cellulose" has been inserted before the phrase "gelling agent".

In claim 21 line 2 the word "essentially" has been deleted.

In claim 22 line 4 the word "cellulose" has been inserted before the phrase "gelling agent".

#### **Reasons for Allowance**

The following is an examiner's statement of reasons for allowance: the composition consisting only of the following ingredients 25-35 wt. % magnesium chloride, water, cellulose gelling agent and glycerin are novel and non-obvious over the prior art. The closest prior art found by the examiner Cantin which teaches MgCl within applicants claimed range and all of the other ingredients above, however the gel


compositions of Cantin must contain a dermatological active agent which is now excluded by the transitional phrase "consisting of".

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Rogers, Ph.D. whose telephone number is (571) 272-7838. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MICHAEL G. HARTLEY  
SUPERVISORY PATENT EXAMINER